

*Sanders (Beth) v. City of Seattle*

No. 78579-1

CHAMBERS, J. (dissenting) — Somewhere in the world, a woman stands in silent vigil for those who have died. Somewhere in the world, a man stands on a box preaching the gospel while holding a sign that proclaims, "Jesus Saves." Somewhere in the world, a man wearing a robe passes out leaflets warning that the government is oppressive. Somewhere nearby, a high court in America upholds a policy prohibiting antiwar protestors from picketing on a public thoroughfare to public trains. I have no doubt which of these acts should cause the greatest alarm.

I agree with Justice Sanders that the Westlake Center walkway to the Seattle Center Monorail station is a public forum. Dissent at 2. The Westlake Center walkway unmistakably possesses the characteristics of a traditional public forum where people in free countries are free to gather and exchange ideas. Dissent at 3-5. The Westlake Center walkway is like any other train, bus, or subway station around the world. It is exactly because people crowd into railway and subway stations that shops and businesses abound and people go there to express their ideas.

I agree with the majority that public safety is a legitimate concern.

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Majority at 25. The candle may light a fire, the stick may poke, and leaflets may clutter, but they are all risks we assume in a free society. We endure and embrace these potential harms willingly as the price we pay to freely exchange ideas without government interference. Depending on how vigorously they wield their messages, protestors and preachers may properly provoke caution from those passing by, but they should rarely cause alarm. It is instead courts' tolerance for slowly stripping away, one painful precedent after another, the First Amendment right of freedom of expression that *should* cause alarm.

Our constitution was born out of a revolution from an oppressive regime. Our founders sought to guarantee freedom from future oppressive regimes. The real risk is not the clutter, or the poke, or even the fire; it is the slow, gradual erosion of freedom, one governmental decision at a time. Today, the majority suggest the government can contract away our freedoms by easement agreements. I must dissent.

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AUTHOR:

Justice Tom Chambers

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WE CONCUR:

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